

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 233

HOUSE BILL 2468

AN ACT

AMENDING SECTION 20-456, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-468; RELATING TO MOTOR VEHICLE INSURERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-456, Arizona Revised Statutes, is amended to
3 read:

4 20-456. Cease and desist order for defined or prohibited
5 practices; civil penalty

6 A. If after a hearing the director finds that the person charged has
7 engaged or is engaging in any act or practice defined in or prohibited under
8 this article as an illegal or unfair method of competition or an unfair or
9 deceptive act or practice, the director shall order the person to cease and
10 desist from the proscribed acts or practices.

11 B. If the act or practice is a violation of section 20-443 through,
12 20-443.01, 20-444, 20-445, 20-446, 20-447, 20-448, 20-448.01, 20-448.02,
13 20-449, 20-451, 20-452 or 20-467 or a general business practice of committing
14 or performing acts or omissions proscribed by section SECTIONS 20-461 AND
15 20-468, the director may also impose a civil penalty of not more than one
16 thousand dollars for each act or violation but not to exceed an aggregate
17 penalty of ten thousand dollars unless the person intentionally violates any
18 section enumerated in this subsection, in which case the director may impose
19 a civil penalty of up to five thousand dollars for each act or violation but
20 not to exceed an aggregate penalty of fifty thousand dollars in any six month
21 period.

22 C. No order of the director pursuant to this section or order of A
23 court to enforce it, or holding of a hearing, may in any manner relieve or
24 absolve any person affected by the order or hearing from any other liability,
25 penalty or forfeiture under law.

26 Sec. 2. Title 20, chapter 2, article 6, Arizona Revised Statutes, is
27 amended by adding section 20-468, to read:

28 20-468. Policyholder choice of repair facility; conditions;
29 cease and desist order; civil penalty

30 A. FOR REPAIR FACILITIES OTHER THAN GLASS REPAIR FACILITIES AND
31 SUBJECT TO THE RIGHTS OF AN INSURER TO RECEIVE NOTICE OF LOSS OR CLAIM
32 CONSISTENT WITH THE PROVISIONS OF ITS POLICY, A PERSON IN THIS STATE HAS THE
33 RIGHT TO CHOOSE ANY REPAIR FACILITY FOR THE REPAIR OF A MOTOR VEHICLE LOSS.
34 IF AN INSURER PROVIDES INFORMATION ABOUT A REPAIR FACILITY, THE INSURER SHALL
35 INFORM THE PERSON OF THIS RIGHT AT THE SAME TIME AS MAKING THE RECOMMENDATION
36 OR PROVIDING THE INFORMATION. THIS SECTION DOES NOT CREATE A PRIVATE RIGHT
37 OR CAUSE OF ACTION TO OR ON BEHALF OF ANY PERSON.

38 B. IF AN INSURED OR CLAIMANT SELECTS A REPAIR FACILITY TO REPAIR THE
39 INSURED'S OR CLAIMANT'S MOTOR VEHICLE IN WHICH THE INSURER OWNS AN INTEREST
40 IN THAT REPAIR FACILITY, THE ADJUSTER FOR THE MOTOR VEHICLE SHALL NOT BE
41 EMPLOYED BY THE REPAIR FACILITY OR HAVE ANY DIRECT AUTHORITY OVER THAT
42 FACILITY'S RECOMMENDATIONS OR DECISIONS RELATING TO THE REPAIR OF THE
43 INSURED'S OR CLAIMANT'S MOTOR VEHICLE.

1 Sec. 3. Tied repair facility reports

2 A. Through January 10, 2008, a repair facility in which an insurer
3 owns an interest in the repair facility and that engages in the business of
4 repairing or replacing the nonmechanical exterior or interior body parts of
5 a damaged motor vehicle, on or before the tenth day following each calendar
6 year, shall file with the director of the department of insurance:

7 1. A statement delineating the number of motor vehicles repaired and
8 the dollar values of those repairs by each such repair facility for the
9 previous calendar year for which the motor vehicle owners were insured by or
10 claimants of the insurer that owns an interest in the repair facility.

11 2. The total number of motor vehicles repaired and the dollar values
12 by that repair facility that the motor vehicle owners were insured by or
13 claimants of the insurer that owns an interest in the repair facility as a
14 percentage of the total number of motor vehicles repaired or the total dollar
15 values in that repair facility for that calendar year.

16 B. The department of insurance shall maintain the information received
17 pursuant to subsection A of this section as confidential information. The
18 department shall make this information available to the president of the
19 senate or the speaker of the house of representatives upon request.

APPROVED BY THE GOVERNOR MAY 14, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2004.